

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3837
OFFERED BY MR. KANJORSKI AND MRS. BIGGERT**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Escrow, Appraisal, and
3 Mortgage Servicing Improvements Act”.

4 SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—MORTGAGE SERVICING

Sec. 101. Escrow and impound accounts relating to certain consumer credit transactions.

Sec. 102. Disclosure notice required for consumers who opt out of escrow services.

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Sec. 104. Mortgage servicing studies required.

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TITLE II—APPRAISAL ACTIVITIES

Sec. 201. Property appraisal requirements.

Sec. 202. Unfair and deceptive practices and acts relating to certain consumer credit transactions.

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1 **TITLE I—MORTGAGE SERVICING**

2 **SEC. 101. ESCROW AND IMPOUND ACCOUNTS RELATING TO**
3 **CERTAIN CONSUMER CREDIT TRANS-**
4 **ACTIONS.**

5 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
6 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting
7 after section 129 the following new section:

8 **“SEC. 129A. ESCROW OR IMPOUND ACCOUNTS RELATING**
9 **TO CERTAIN CONSUMER CREDIT TRANS-**
10 **ACTIONS.**

11 “(a) IN GENERAL.—Except as provided in subsection
12 (b) or (c), a creditor, in connection with the formation or
13 consummation of a consumer credit transaction secured
14 by a first lien on the principal dwelling of the consumer,
15 other than a consumer credit transaction under an open
16 end credit plan, shall establish, at the time of the con-
17 summation of such transaction, an escrow or impound ac-
18 count for the payment of taxes and hazard insurance, and,
19 if applicable, flood insurance, mortgage insurance, ground
20 rents, and any other required periodic payments or pre-
21 miums with respect to the property or the loan terms, as
22 provided in, and in accordance with, this section, unless
23 such account already exists.

24 “(b) WHEN REQUIRED.—No impound, trust, or other
25 type of account for the payment of property taxes, insur-

1 ance premiums, or other purposes relating to the property
2 may be required as a condition of a real property sale con-
3 tract or a loan secured by a first deed of trust or mortgage
4 on real property containing only a single-family, owner-
5 occupied dwelling, except when—

6 “(1) any such impound, trust, or other type of
7 escrow or impound account for such purposes is re-
8 quired by Federal or State law;

9 “(2) a loan is made, guaranteed, or insured by
10 a State or Federal governmental lending or insuring
11 agency;

12 “(3) the consumer’s debt-to-income ratio at the
13 time the home mortgage is established taking into
14 account income from all sources including the con-
15 sumer’s employment exceeds 50 percent;

16 “(4) the transaction is secured by a first mort-
17 gage or lien on the consumer’s principal dwelling
18 and the annual percentage rate on the credit, at the
19 time of consummation of the transaction, will exceed
20 by more than 3.0 percentage points the yield on
21 Treasury securities having comparable periods of
22 maturity on the 15th day of the month immediately
23 preceding the month in which the application of the
24 extension of credit is received by the creditor;

1 “(5) a consumer obtains a mortgage referred to
2 in section 103(aa);

3 “(6) the original principal amount of such loan
4 at the time of consummation of the transaction is—

5 “(A) 90 percent or more of the sale price,
6 if the property involved is purchased with the
7 proceeds of the loan; or

8 “(B) 90 percent or more of the appraised
9 value of the property securing the loan;

10 “(7) the combined principal amount of all loans
11 secured by the real property exceeds 95 percent of
12 the appraised value of the property securing the
13 loans at the time of consummation of the last mort-
14 gage transaction;

15 “(8) the consumer was the subject of a pro-
16 ceeding under title 11, United States Code, at any
17 time during the 10-year period preceding the date of
18 the transaction (as determined on the basis of the
19 date of entry of the order for relief or the date of
20 adjudication, as the case may be, with respect to
21 such proceeding and included in a consumer report
22 on the consumer under the Fair Credit Reporting
23 Act) ; or

24 “(9) so required by the Board pursuant to reg-
25 ulation.

1 “(c) DURATION OF ESCROW OR IMPOUND AC-
2 COUNT.—An escrow or impound account established pur-
3 suant to subsection (b), shall remain in existence for a
4 minimum period of 5 years and until such borrower has
5 sufficient equity in the dwelling securing the consumer
6 credit transaction so as to no longer be required to main-
7 tain private mortgage insurance, or such other period as
8 may be provided in regulations to address situations such
9 as borrower delinquency, unless the underlying mortgage
10 establishing the account is terminated.

11 “(d) CLARIFICATION ON ESCROW ACCOUNTS FOR
12 LOANS NOT MEETING STATUTORY TEST.—For mort-
13 gages not covered by the requirements of subsection (b),
14 no provision of this section shall be construed as pre-
15 cluding the establishment of an impound, trust, or other
16 type of account for the payment of property taxes, insur-
17 ance premiums, or other purposes relating to the prop-
18 erty—

19 “(1) on terms mutually agreeable to the parties
20 to the loan; or

21 “(2) at the discretion of the lender or servicer,
22 as provided by the contract between the lender or
23 servicer and the borrower.

24 “(e) ADMINISTRATION OF ESCROW OR IMPOUND AC-
25 COUNTS.—

1 “(1) IN GENERAL.—Except as may otherwise
2 be provided for in this title or in regulations pre-
3 scribed by the Board, escrow or impound accounts
4 established pursuant to this section shall be estab-
5 lished in a federally insured depository institution.

6 “(2) ADMINISTRATION.—Except as provided in
7 this section or regulations prescribed under this sec-
8 tion, an escrow or impound account subject to this
9 section shall be administered in accordance with—

10 “(A) the Real Estate Settlement Proce-
11 dures Act of 1974 and regulations prescribed
12 under such Act; and

13 “(B) the law of the State, if applicable,
14 where the real property securing the consumer
15 credit transaction is located.

16 “(3) APPLICABILITY OF PAYMENT OF INTER-
17 EST.—If prescribed by applicable State or Federal
18 law, each creditor shall pay interest to the consumer
19 on the amount held in any impound, trust, or escrow
20 account that is subject to this section in the manner
21 as prescribed by that applicable State or Federal
22 law.

23 “(f) DISCLOSURES RELATING TO ESCROW OR IM-
24 POUND ACCOUNT.—In the case of any impound, trust, or
25 escrow account that is subject to this section, the creditor

1 shall disclose by written notice to the consumer at least
2 3 business days before the consummation of the consumer
3 credit transaction giving rise to such account the following
4 information or in accordance with timeframes established
5 in prescribed regulations:

6 “(1) The fact that an escrow or impound ac-
7 count will be established at consummation of the
8 transaction.

9 “(2) The amount required at closing to initially
10 fund the escrow or impound account.

11 “(3) The amount, in the initial year after the
12 consummation of the transaction, of the estimated
13 taxes and hazard insurance, including flood insur-
14 ance, if applicable, and any other required periodic
15 payments or premiums that reflects, as appropriate,
16 either the taxable assessed value of the real property
17 securing the transaction, including the value of any
18 improvements on the property or to be constructed
19 on the property (whether or not such construction
20 will be financed from the proceeds of the trans-
21 action) or the replacement costs of the property.

22 “(4) The estimated monthly amount payable for
23 taxes, hazard insurance (including flood insurance, if
24 applicable) and any other required periodic pay-
25 ments or premiums.

1 “(5) The fact that, if the consumer chooses to
2 terminate the account at the appropriate time in the
3 future, the consumer will become responsible for the
4 payment of all taxes, hazard insurance, and flood in-
5 surance, if applicable, as well as any other required
6 periodic payments or premiums on the property un-
7 less a new escrow or impound account is established.

8 “(g) DEFINITIONS.—For purposes of this section, the
9 following definitions shall apply:

10 “(1) FLOOD INSURANCE.—The term ‘flood in-
11 surance’ means flood insurance coverage provided
12 under the national flood insurance program pursu-
13 ant to the National Flood Insurance Act of 1968.

14 “(2) HAZARD INSURANCE.—The term ‘hazard
15 insurance’ shall have the same meaning as provided
16 for ‘hazard insurance’, ‘casualty insurance’, ‘home-
17 owner’s insurance’, or other similar term under the
18 law of the State where the real property securing the
19 consumer credit transaction is located.”.

20 (b) IMPLEMENTATION.—

21 (1) REGULATIONS.—The Board of Governors of
22 the Federal Reserve System, the Comptroller of the
23 Currency, the Director of the Office of Thrift Super-
24 vision, the Federal Deposit Insurance Corporation,
25 the National Credit Union Administration Board,

1 (hereafter in this Act referred to as the “Federal
2 banking agencies”) and the Federal Trade Commis-
3 sion shall prescribe, in final form, such regulations
4 as determined to be necessary to implement the
5 amendments made by subsection (a) before the end
6 of the 180-day period beginning on the date of the
7 enactment of this Act.

8 (2) **EFFECTIVE DATE.**—The amendments made
9 by subsection (a) shall only apply to covered mort-
10 gage loans consummated after the end of the 1-year
11 period beginning on the date of the publication of
12 final regulations in the Federal Register.

13 (c) **CLERICAL AMENDMENT.**—The table of sections
14 for chapter 2 of the Truth in Lending Act is amended
15 by inserting after the item relating to section 129 the fol-
16 lowing new item:

“129A. Escrow or impound accounts relating to certain consumer credit trans-
actions.”.

17 **SEC. 102. DISCLOSURE NOTICE REQUIRED FOR CON-**
18 **SUMERS WHO OPT OUT OF ESCROW SERV-**
19 **ICES.**

20 (a) **IN GENERAL.**—Section 129A of the Truth in
21 Lending Act (as added by section 101 of this title) is
22 amended by adding at the end the following new sub-
23 section:

1 “(h) DISCLOSURE NOTICE REQUIRED FOR CON-
2 SUMERS WHO OPT OUT OF ESCROW SERVICES.—

3 “(1) IN GENERAL.—If—

4 “(A) an impound, trust, or other type of
5 account for the payment of property taxes, in-
6 surance premiums, or other purposes relating to
7 real property securing a consumer credit trans-
8 action is not established in connection with the
9 transaction; or

10 “(B) a consumer chooses, at any time after
11 such an account is established in connection
12 with any such transaction and in accordance
13 with any statutory or contractual agreement, to
14 close such account,

15 the creditor shall provide a timely and clearly writ-
16 ten disclosure to the consumer that advises the con-
17 sumer of the responsibilities of the consumer and
18 implications for the consumer in the absence of any
19 such account.

20 “(2) DISCLOSURE REQUIREMENTS.—Any dis-
21 closure provided to a consumer under paragraph (1)
22 shall include the following:

23 “(A) Information concerning any applica-
24 ble fees associated with either the non-establish-
25 ment of any such account at the time of the

1 transaction, or any subsequent closure of any
2 such account.

3 “(B) A clear and prominent notice that the
4 consumer is responsible for personally and di-
5 rectly paying the non-escrowed items, in addi-
6 tion to paying the mortgage loan payment, in
7 the absence of any such account, and the fact
8 that the costs for taxes, insurance, and related
9 fees can be substantial.

10 “(C) A clear explanation of the con-
11 sequences of any failure to pay non-escrowed
12 items, including the possible requirement for
13 the forced placement of insurance by the cred-
14 itor and the potentially higher cost (including
15 any potential commission payments to the
16 servicer) or reduced coverage for the consumer
17 in the event of any such creditor-placed insur-
18 ance.”.

19 (b) IMPLEMENTATION.—

20 (1) REGULATIONS.—The Federal banking agen-
21 cies and the Federal Trade Commission shall pre-
22 scribe, in final form, such regulations as such agen-
23 cies determine to be necessary to implement the
24 amendments made by subsection (a) before the end

1 of the 180-day period beginning on the date of the
2 enactment of this Act.

3 (2) EFFECTIVE DATE.—The amendments made
4 by subsection (a) shall only apply in accordance with
5 the regulations established in paragraph (1) and be-
6 ginning on the date occurring 180-days after the
7 date of the publication of final regulations in the
8 Federal Register.

9 **SEC. 103. REAL ESTATE SETTLEMENT PROCEDURES ACT OF**
10 **1974 AMENDMENTS.**

11 (a) SERVICER PROHIBITIONS.—Section 6 of the Real
12 Estate Settlement Procedures Act of 1974 (12 U.S.C.
13 2605) is amended by adding at the end the following new
14 subsections:

15 “(k) SERVICER PROHIBITIONS.—

16 “(1) IN GENERAL.—A servicer of a federally re-
17 lated mortgage shall not—

18 “(A) obtain force-placed insurance unless
19 there is a reasonable basis to believe the bor-
20 rower has failed to comply with the loan con-
21 tract’s requirements to maintain property insur-
22 ance;

23 “(B) charge fees for responding to valid
24 qualified written requests (as defined in regula-

1 tions which the Secretary shall prescribe) under
2 this section;

3 “(C) fail to take timely action to respond
4 to a borrower’s requests to correct errors relat-
5 ing to allocation of payments, final balances for
6 purposes of paying off the loan, or avoiding
7 foreclosure, or other standard servicer’s duties;

8 “(D) fail to respond within 10 business
9 days to a request from a borrower to provide
10 the identity, address, and other relevant contact
11 information about the owner assignee of the
12 loan; or

13 “(E) fail to comply with any other obliga-
14 tion found by the Secretary, by regulation, to
15 be appropriate to carry out the consumer pro-
16 tection purposes of this Act.

17 “(2) FORCE-PLACED INSURANCE DEFINED.—
18 For purposes of this subsection and subsections (l)
19 and (m), the term ‘force-placed insurance’ means
20 hazard insurance coverage obtained by a servicer of
21 a federally related mortgage to protect the mortga-
22 gee’s interest in the property secured by the mort-
23 gage when the borrower has failed to maintain or
24 renew hazard or flood insurance on such property as

1 required of the borrower under the terms of the
2 mortgage.

3 “(l) REQUIREMENTS FOR FORCE-PLACED INSUR-
4 ANCE.—A servicer of a federally related mortgage shall
5 not be construed as having a reasonable basis for obtain-
6 ing force-placed insurance unless the requirements of this
7 subsection have been met.

8 “(1) WRITTEN NOTICES TO BORROWER.—A
9 servicer may not impose any charge on any borrower
10 for force-placed insurance with respect to any prop-
11 erty securing a federally related mortgage unless—

12 “(A) the servicer has sent, by first-class
13 mail, a written notice to the borrower con-
14 taining—

15 “(i) a reminder of the borrower’s obli-
16 gation to maintain hazard or flood insur-
17 ance on the property securing the federally
18 related mortgage;

19 “(ii) a statement that the servicer
20 does not have evidence of insurance cov-
21 erage of such property;

22 “(iii) a clear and conspicuous state-
23 ment of the procedures by which the bor-
24 rower may demonstrate that the borrower
25 already has insurance coverage; and

1 “(iv) a statement that the servicer
2 may obtain such coverage at the borrower’s
3 expense if the borrower does not provide
4 such demonstration of the borrower’s exist-
5 ing coverage in a timely manner;

6 “(B) the servicer has sent, by certified
7 mail, a second written notice, at least 30 days
8 after the mailing of the notice under subpara-
9 graph (A) that contains all the information de-
10 scribed in each clauses of such subparagraph;
11 and

12 “(C) the servicer has not received from the
13 borrower any demonstration of hazard insur-
14 ance coverage or, if applicable, flood insurance
15 coverage for the property securing the mortgage
16 by the end of the 20-day period beginning on
17 the date the notice under subparagraph (B) was
18 sent by the servicer.

19 “(2) SUFFICIENCY OF DEMONSTRATION.—A
20 servicer of a federally related mortgage shall accept
21 any reasonable form of written confirmation from a
22 borrower of existing insurance coverage, which shall
23 include the existing insurance policy number along
24 with the identity of, and contact information for, the
25 insurance company or agent.

1 “(3) TERMINATION OF FORCE-PLACED INSUR-
2 ANCE.—Within 15 days of the receipt by a servicer
3 of confirmation of a borrower’s existing insurance
4 coverage, the servicer shall—

5 “(A) terminate the force-placed insurance;
6 and

7 “(B) refund to the consumer all force-
8 placed insurance premiums paid by the bor-
9 rower during any period during which the bor-
10 rower’s insurance coverage and the force-placed
11 insurance coverage were each in effect, and any
12 related fees charged to the consumer’s account
13 with respect to the force-placed insurance dur-
14 ing such period.

15 “(m) LIMITATIONS ON FORCE-PLACED INSURANCE
16 CHARGES.—All charges for force-placed insurance pre-
17 miums shall be bona fide and reasonable in amount.

18 “(n) PROMPT CREDITING OF PAYMENTS RE-
19 QUIRED.—All amounts received by a lender or a servicer
20 shall be accepted and credited on the business day re-
21 ceived.”.

22 “(b) INCREASE IN PENALTY AMOUNTS.—Section 6(f)
23 of the Real Estate Settlement Procedures Act of 1974 (12
24 U.S.C. 2605(f)) is amended—

1 (1) in paragraphs (1)(B) and (2)(B), by strik-
2 ing “\$1,000” each place such term appears and in-
3 serting “\$3,000”; and

4 (2) in paragraph (2)(B)(i), by striking
5 “\$500,000” and inserting “\$1,000,000”.

6 (c) DECREASE IN RESPONSE TIMES.—Section 6(e) of
7 the Real Estate Settlement Procedures Act of 1974 (12
8 U.S.C. 2605(e)) is amended—

9 (1) in paragraph (1)(A), by striking “20 days”
10 and inserting “10 days”;

11 (2) in paragraph (2), by striking “60 days” and
12 inserting “30 days”; and

13 (3) by adding at the end the following new
14 paragraph:

15 “(4) LIMITED EXTENSION OF RESPONSE
16 TIME.—The 30-day period described in paragraph
17 (2) may be extended for not more than 30 days if,
18 before the end of such 30-day period, the servicer
19 notifies the borrower of the extension and the rea-
20 sons for the delay in responding.”.

21 (d) REQUESTS FOR PAY-OFF AMOUNTS.—Section
22 6(e) of the Real Estate Settlement Procedures Act of 1974
23 (12 U.S.C. 2605(e)) is amended by inserting after para-
24 graph (4) (as added by subsection (c) of this section) the
25 following new paragraph:

1 “(5) REQUESTS FOR PAY-OFF AMOUNTS.—A
2 creditor or servicer shall send a payoff balance with-
3 in 7 business days of the receipt of a written request
4 for such balance from or on behalf of the bor-
5 rower.”.

6 (e) PROMPT REFUND OF ESCROW ACCOUNTS UPON
7 PAYOFF.—Section 6(g) of the Real Estate Settlement
8 Procedures Act of 1974 (12 U.S.C. 2605(g)) is amended
9 by adding at the end the following new sentence: “Any
10 balance in any such account that is within the servicer’s
11 control at the time the loan is paid off shall be promptly
12 returned to the borrower within 20 business days.”.

13 **SEC. 104. MORTGAGE SERVICING STUDIES REQUIRED.**

14 (a) MORTGAGE SERVICING PRACTICES.—

15 (1) STUDY.—The Secretary of Housing and
16 Urban Development, in consultation with the Fed-
17 eral banking agencies, and the Federal Trade Com-
18 mission, shall conduct a comprehensive study on
19 mortgage servicing practices and their potential for
20 fraud and abuse.

21 (2) ISSUES TO BE INCLUDED.—In addition to
22 other issues the Secretary of Housing and Urban
23 Development, the Federal banking agencies, and the
24 Federal Trade Commission may determine to be ap-
25 propriate and possibly pertinent to the study con-

1 ducted under paragraph (1), the study shall include
2 the following issues:

3 (A) A survey of the industry in order to
4 examine the issue of the timely posting of pay-
5 ments by servicers.

6 (B) The employment of daily interest when
7 payments are made after a due date.

8 (C) The charging of late fees on the entire
9 outstanding principal.

10 (D) The charging of interest on servicing
11 fees.

12 (E) The utilization of abusive collection
13 practices.

14 (F) The charging of prepayment penalties
15 when not authorized by either the note or law.

16 (G) The employment of unconscionable for-
17 bearance agreements.

18 (H) Foreclosure abuses.

19 (3) REPORT.—Before the end of the 12-month
20 period beginning on the date of the enactment of
21 this Act, the Secretary of Housing and Urban Devel-
22 opment shall submit a report on the study conducted
23 under this subsection to the Committee on Financial
24 Services of the House of Representatives and the

1 Committee on Banking, Housing, and Urban Affairs
2 of the Senate.

3 (b) MORTGAGE SERVICING IMPROVEMENTS.—

4 (1) STUDY.—The Secretary of Housing and
5 Urban Development, in consultation with the Fed-
6 eral banking agencies, and the Federal Trade Com-
7 mission, shall conduct a comprehensive study on
8 means to improve the best practices of the mortgage
9 servicing industry, and Federal and State laws gov-
10 erning such industry.

11 (2) REPORT.—Before the end of the 18-month
12 period beginning on the date of the enactment of
13 this Act, the Secretary of Housing and Urban Devel-
14 opment shall submit a report on the study conducted
15 under this subsection to the Committee on Financial
16 Services of the House of Representatives and the
17 Committee on Banking, Housing, and Urban Affairs
18 of the Senate, together with such recommendations
19 for administrative or legislative action as the Sec-
20 retary, in consultation with the Board and the Com-
21 mission, may determine to be appropriate.

22 **SEC. 105. ESCROWS INCLUDED IN REPAYMENT ANALYSIS.**

23 (a) IN GENERAL.—Section 128(b) of the Truth in
24 Lending Act (15 U.S.C. 1638(b)) is amended by adding
25 at the end the following new paragraph:

1 “(4) REPAYMENT ANALYSIS REQUIRED TO IN-
2 CLUDE ESCROW PAYMENTS.—

3 “(A) IN GENERAL.—In the case of any
4 consumer credit transaction secured by a first
5 mortgage or lien on the consumer’s principal
6 residence for which an impound, trust, or other
7 type of account has been or will be established
8 in connection with the transaction for the pay-
9 ment of property taxes, hazard and flood (if
10 any) insurance premiums, or other periodic pay-
11 ments or premiums with respect to the prop-
12 erty, the information required to be provided
13 under subsection (a) with respect to the amount
14 of the repayments shall take into account the
15 amount of any monthly payment to such ac-
16 count for each such repayment in accordance
17 with section 10(a)(2) of the Real Estate Settle-
18 ment Procedures Act of 1974.

19 “(B) ASSESSMENT VALUE.—The amount
20 taken into account under subparagraph (A) for
21 the payment of property taxes, hazard and flood
22 (if any) insurance premiums, or other periodic
23 payments or premiums with respect to the
24 property shall reflect the taxable assessed value
25 of the real property securing the transaction

1 after the consummation of the transaction, in-
2 cluding the value of any improvements on the
3 property or to be constructed on the property
4 (whether or not such construction will be fi-
5 nanced from the proceeds of the transaction)
6 and the replacement costs of the property, in
7 the initial year after the transaction.”.

8 **TITLE II—APPRAISAL**
9 **ACTIVITIES**

10 **SEC. 201. PROPERTY APPRAISAL REQUIREMENTS.**

11 Section 129 of the Truth in Lending Act (15 U.S.C.
12 1639) is amended by inserting after subsection (l) the fol-
13 lowing new subsection:

14 “(m) PROPERTY APPRAISAL REQUIREMENTS.—

15 “(1) IN GENERAL.—A creditor may not extend
16 credit in the form of a mortgage referred to in sec-
17 tion 103(aa) to any consumer without first obtaining
18 a written appraisal of the property to be mortgaged
19 prepared in accordance with the requirements of this
20 subsection.

21 “(2) APPRAISAL REQUIREMENTS.—

22 “(A) PHYSICAL PROPERTY VISIT.—An ap-
23 praisal of property to be secured by a mortgage
24 referred to in section 103(aa) does not meet the
25 requirement of this subsection unless it is per-

1 formed by a qualified appraiser who conducts a
2 physical property visit of the interior of the
3 mortgaged property.

4 “(B) SECOND APPRAISAL UNDER CERTAIN
5 CIRCUMSTANCES.—

6 “(i) IN GENERAL.—If the purpose of
7 a mortgage referred to in section 103(aa)
8 is to finance the purchase or acquisition of
9 the mortgaged property from a person
10 within 180 days of the purchase or acqui-
11 sition of such property by that person at a
12 price that was lower than the current sale
13 price of the property, the creditor shall ob-
14 tain a second appraisal from a different
15 qualified appraiser. The second appraisal
16 shall include an analysis of the difference
17 in sale prices, changes in market condi-
18 tions, and any improvements made to the
19 property between the date of the previous
20 sale and the current sale.

21 “(ii) NO COST TO CONSUMER.—The
22 cost of any second appraisal required
23 under clause (i) may not be charged to the
24 consumer.

1 “(C) QUALIFIED APPRAISER DEFINED.—

2 For purposes of this subsection, the term

3 ‘qualified appraiser’ means a person who—

4 “(i) is certified or licensed by the

5 State in which the property to be ap-

6 praised is located; and

7 “(ii) performs each appraisal in con-

8 formity with the Uniform Standards of

9 Professional Appraisal Practice and title

10 XI of the Financial Institutions Reform,

11 Recovery, and Enforcement Act of 1989,

12 and the regulations prescribed under such

13 title, as in effect on the date of the ap-

14 praisal.

15 “(3) FREE COPY OF APPRAISAL.—A creditor

16 shall provide 1 copy of each appraisal conducted in

17 accordance with this subsection in connection with a

18 mortgage referred to in section 103(aa) to the con-

19 sumer without charge, and at least 3 days prior to

20 the transaction closing date.

21 “(4) CONSUMER NOTIFICATION.—At the time

22 of the initial mortgage application, the consumer

23 shall be provided with a statement by the creditor

24 that any appraisal prepared for the mortgage is for

25 the sole use of the creditor, and that the consumer

1 may choose to have a separate appraisal conducted
2 at their own expense.

3 “(5) VIOLATIONS.—In addition to any other li-
4 ability to any person under this title, a creditor
5 found to have willfully failed to obtain an appraisal
6 as required in this subsection shall be liable to the
7 consumer for the sum of \$2,000.”.

8 **SEC. 202. UNFAIR AND DECEPTIVE PRACTICES AND ACTS**
9 **RELATING TO CERTAIN CONSUMER CREDIT**
10 **TRANSACTIONS.**

11 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
12 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting
13 after section 129A (as added by section 101 of this Act)
14 the following new section:

15 **“SEC. 129B. UNFAIR AND DECEPTIVE PRACTICES AND ACTS**
16 **RELATING TO CERTAIN CONSUMER CREDIT**
17 **TRANSACTIONS.**

18 “(a) IN GENERAL.—It shall be unlawful, in providing
19 any services for a consumer credit transaction secured by
20 the principal dwelling of the consumer, to engage in any
21 unfair or deceptive act or practice as described in or pur-
22 suant to regulations prescribed under this section.

23 “(b) APPRAISAL INDEPENDENCE.—For purposes of
24 subsection (a), unfair and deceptive practices shall in-
25 clude—

1 “(1) any appraisal of a property offered as se-
2 curity for repayment of the consumer credit trans-
3 action that is conducted in connection with such
4 transaction in which a person with an interest in the
5 underlying transaction compensates, coerces, extorts,
6 colludes, instructs, induces, bribes, or intimidates a
7 person conducting or involved in an appraisal, or at-
8 tempts, to compensate, coerce, extort, collude, in-
9 struct, induce, bribe, or intimidate such a person,
10 for the purpose of causing the appraised value as-
11 signed, under the appraisal, to the property to be
12 based on any factor other than the independent
13 judgment of the appraiser;

14 “(2) mischaracterizing, or suborning any
15 mischaracterization of, the appraised value of the
16 property securing the extension of the credit;

17 “(3) seeking to influence an appraiser or other-
18 wise to encourage a targeted value in order to facili-
19 tate the making or pricing of the transaction; and

20 “(4) failing to timely compensate an appraiser
21 for a completed appraisal regardless of whether the
22 transaction closes.

23 “(c) EXCEPTIONS.—The requirements of subsection
24 (b) shall not be construed as prohibiting a mortgage lend-
25 er, mortgage broker, mortgage banker, real estate broker,

1 or any other person with an interest in a real estate trans-
2 action from asking an appraiser to provide 1 or more of
3 the following services:

4 “(1) Consider additional, appropriate property
5 information, including the consideration of addi-
6 tional comparable properties to make or support an
7 appraisal.

8 “(2) Provide further detail, substantiation, or
9 explanation for the appraiser’s value conclusion.

10 “(3) Correct errors in the appraisal report.

11 “(d) RULEMAKING PROCEEDINGS.—The Board of
12 Governors of the Federal Reserve System, the Comptroller
13 of the Currency, the Director of the Office of Thrift Su-
14 pervision, the Federal Deposit Insurance Corporation, the
15 National Credit Union Administration Board, and the
16 Federal Trade Commission—

17 “(1) shall, for purposes of this section, jointly
18 prescribe regulations defining with specificity acts or
19 practices which are unfair or deceptive in the provi-
20 sion of mortgage lending services for a consumer
21 credit transaction secured by the principal dwelling
22 of the consumer or mortgage brokerage services for
23 such a transaction and defining any terms in this
24 section or such regulations; and

1 “(2) may jointly issue interpretive guidelines
2 and general statements of policy with respect to un-
3 fair or deceptive acts or practices in the provision of
4 mortgage lending services for a consumer credit
5 transaction secured by the principal dwelling of the
6 consumer and mortgage brokerage services for such
7 a transaction, within the meaning of subsections (a),
8 (b), and (c).

9 “(e) PENALTIES.—

10 “(1) FIRST VIOLATION.—In addition to the en-
11 forcement provisions referred to in section 130, each
12 person who violates this section shall forfeit and pay
13 a civil penalty of not more than \$10,000 for each
14 day any such violation continues.

15 “(2) SUBSEQUENT VIOLATIONS.—In the case of
16 any person on whom a civil penalty has been im-
17 posed under paragraph (1), paragraph (1) shall be
18 applied by substituting ‘\$20,000’ for ‘\$10,000’ with
19 respect to all subsequent violations.

20 “(3) ASSESSMENT.—The agency referred to in
21 subsection (a) or (c) of section 108 with respect to
22 any person described in paragraph (1) shall assess
23 any penalty under this subsection to which such per-
24 son is subject.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for chapter 2 of the Truth in Lending Act is amended
3 by inserting after the item relating to section 129A (as
4 added by section 101 of this Act) the following new item:

“129B. Unfair and deceptive practices and acts relating to certain consumer
credit transactions.”.

5 **SEC. 203. AMENDMENTS RELATING TO APPRAISAL SUB-**
6 **COMMITTEE OF FIEC, APPRAISER INDEPEND-**
7 **ENCE, AND APPROVED APPRAISER EDU-**
8 **CATION.**

9 (a) CONSUMER PROTECTION MISSION.—

10 (1) PURPOSES.—Section 1101 of the Financial
11 Institutions Reform, Recovery, and Enforcement Act
12 of 1989 (12 U.S.C. 3331) is amended by inserting
13 “and to provide the Appraisal Subcommittee with a
14 consumer protection mandate” before the period at
15 the end.

16 (2) FUNCTIONS OF APPRAISAL SUB-
17 COMMITTEE.—Section 1103(a) of the Financial In-
18 stitutions Reform, Recovery, and Enforcement Act
19 of 1989 (12 U.S.C. 3332(a) is amended—

20 (A) by striking “and” at the end of para-
21 graph (3);

22 (B) by striking the period at the end of
23 paragraph (4) and inserting “; and”; and

1 (C) by adding at the end the following new
2 paragraph:

3 “(5) protect the consumer from improper ap-
4 praisal practices and the predations of unlicensed
5 appraisers.”.

6 (3) THRESHOLD LEVELS.—Section 1112(b) of
7 the Financial Institutions Reform, Recovery, and
8 Enforcement Act of 1989 (12 U.S.C. 3341(b)) is
9 amended by inserting before the period the fol-
10 lowing: “, and that such threshold level provides rea-
11 sonable protection for consumers who purchase 1-4
12 unit single-family residences”.

13 (b) ANNUAL REPORT OF APPRAISAL SUB-
14 COMMITTEE.—Section 1103(a)(4) of Financial Institu-
15 tions Reform, Recovery, and Enforcement Act of 1989 (12
16 U.S.C. 3332(a)(4)) is amended at the end by inserting:
17 “The report shall also detail the activities of the Appraisal
18 Subcommittee, including the results of all audits of State
19 appraiser regulatory agencies, and provide an accounting
20 of disapproved actions and warnings taken in the previous
21 year, including a description of the conditions causing the
22 disapproval.”.

23 (c) OPEN MEETINGS.—Section 1104(b) of the Finan-
24 cial Institutions Reform, Recovery, and Enforcement Act
25 of 1989 (12 U.S.C. 3333(b)) is amended by inserting “in

1 public session after notice in the Federal Register” after
2 “shall meet”.

3 (d) REGULATIONS.—Section 1106 of the Financial
4 Institutions Reform, Recovery, and Enforcement Act of
5 1989 (12 U.S.C. 3335) is amended—

6 (1) by inserting “prescribe regulations after no-
7 tice and opportunity for comment,” after “hold
8 hearings”; and

9 (2) at the end by inserting “Any regulations
10 prescribed by the Appraisal Subcommittee shall (un-
11 less otherwise provided in this title) be limited to the
12 following functions: temporary practice, national reg-
13 istry, information sharing, and enforcement. For
14 purposes of prescribing regulations, the Appraisal
15 Subcommittee shall establish an advisory committee
16 of industry participants, including appraisers and
17 government agencies, and hold regular meetings.”.

18 (e) STATE AGENCY REPORTING REQUIREMENT.—
19 Section 1109(a) of the Financial Institutions Reform, Re-
20 covery, and Enforcement Act of 1989 (12 U.S.C. 3338(a))
21 is amended—

22 (1) by striking “and” after the semicolon in
23 paragraph (1);

24 (2) by redesignating paragraph (2) as para-
25 graph (3); and

1 (3) by inserting after paragraph (1) the fol-
2 lowing new paragraph:

3 “(2) transmit reports on sanctions, disciplinary
4 actions, license and certification revocations, and li-
5 cense and certification suspensions on a timely basis
6 to the national registry of the Appraisal Sub-
7 committee; and”.

8 (f) REGISTRY FEES MODIFIED.—Section 1109(a)(3)
9 of the Financial Institutions Reform, Recovery, and En-
10 forcement Act of 1989 (12 U.S.C. 3338(a)(3)) (as modi-
11 fied by section 203(e) of this Act) is amended by—

12 (1) striking “\$25” and inserting “\$40”;

13 (2) striking “\$50” and inserting “\$80”; and

14 (3) inserting after the period at the end the fol-
15 lowing new sentences: “The Appraisal Subcommittee
16 must consider at least once every 5 years whether to
17 adjust the dollar amount of the registry fees to ac-
18 count for inflation. In implementing any change in
19 registry fees, the Appraisal Subcommittee shall pro-
20 vide flexibility to the States for multi-year certifi-
21 cations and licenses already in place, as well as a
22 transition period to implement the changes in reg-
23 istry fees.”

1 (g) GRANTS AND REPORTS.—Section 1109(b) of the
2 Financial Institutions Reform, Recovery, and Enforce-
3 ment Act of 1989 (12 U.S.C. 3348(b)) is amended—

4 (1) by striking “and” after the semicolon in
5 paragraph (3);

6 (2) by striking the period at the end of para-
7 graph (4) and inserting a semicolon; and

8 (3) by adding at the end the following new
9 paragraphs:

10 “(5) make grants to State appraiser regulatory
11 agencies to help defray those costs relating to en-
12 forcement activities; and

13 “(6) to report to all State appraiser certifying
14 and licensing agencies when a license or certification
15 is surrendered, revoked, or suspended.”.

16 (h) CRITERIA.—Section 1116 of the Financial Insti-
17 tutions Reform, Recovery, and Enforcement Act of 1989
18 (12 U.S.C. 3345) is amended—

19 (1) in subsection (c), by inserting “whose cri-
20 teria for the licensing of a real estate appraiser cur-
21 rently meet or exceed the minimum criteria issued
22 by the Appraisal Qualifications Board of The Ap-
23 praisal Foundation for the licensing of real estate
24 appraisers” before the period at the end; and

1 (2) by striking subsection (e) and inserting the
2 following new subsection:

3 “(e) MINIMUM QUALIFICATION REQUIREMENTS.—
4 Any requirements established for individuals in the posi-
5 tion of ‘Trainee Appraiser’ and ‘Supervisory Appraiser’
6 shall meet or exceed the minimum qualification require-
7 ments of the Appraiser Qualifications Board of the Ap-
8 praisal Foundation. The Appraisal Subcommittee shall
9 have the authority to enforce these requirements.”.

10 (i) MONITORING OF STATE APPRAISER CERTIFYING
11 AND LICENSING AGENCIES.—Section 1118(a) of the Fi-
12 nancial Institutions Reform, Recovery, and Enforcement
13 Act of 1989 (12 U.S.C. 3347(a)) is amended—

14 (1) by inserting “funding, staffing,” after
15 “practices,” each place such term appears;

16 (2) by inserting before the period at the end of
17 the first sentence the following: “, whether a State
18 agency processes complaints and completes exams in
19 a reasonable time period, and whether a State agen-
20 cy reports claims and disciplinary actions on a time-
21 ly basis to the national registry maintained by the
22 Appraisal Subcommittee”; and

23 (3) by inserting at the end the following new
24 sentence: “The Appraisal Subcommittee shall have

1 the authority to impose interim sanctions and sus-
2 pensions.”.

3 (j) RECIPROCITY.—Subsection (b) of section 1122 of
4 the Financial Institutions Reform, Recovery, and Enforce-
5 ment Act of 1989 (12 U.S.C. 3351(b)) is amended to read
6 as follows:

7 “(b) RECIPROCITY.—A State appraiser certifying or
8 licensing agency shall issue a reciprocal certification or li-
9 cense for an individual from another State when—

10 “(1) the appraiser licensing and certification
11 program of such other State is in compliance with
12 the provisions of this title; and

13 “(2) the appraiser holds a valid certification
14 from a State whose requirements for certification or
15 licensing meet or exceed the licensure standards es-
16 tablished by the State where an individual seeks ap-
17 praisal licensure.”.

18 (k) CONSIDERATION OF PROFESSIONAL APPRAISAL
19 DESIGNATIONS.—Section 1122(d) of the Financial Insti-
20 tutions Reform, Recovery, and Enforcement Act of 1989
21 (12 U.S.C. 3351(d)) is amended by adding at the end the
22 following new sentence: “No provision of this subsection
23 shall be construed as prohibiting consideration of designa-
24 tions conferred by recognized national professional ap-

1 praisal organizations, such as sponsoring organizations of
2 The Appraisal Foundation.”.

3 (l) APPRAISER INDEPENDENCE.—Section 1122 of
4 the Financial Institutions Reform, Recovery, and Enforce-
5 ment Act of 1989 (12 U.S.C. 3351) is amended by adding
6 at the end the following new subsection:

7 “(g) APPRAISER INDEPENDENCE.—

8 “(1) PROHIBITIONS ON INTERESTED PARTIES
9 IN A REAL ESTATE TRANSACTION.—No mortgage
10 lender, mortgage broker, mortgage banker, real es-
11 tate broker, nor any other person with an interest in
12 a real estate transaction involving an appraisal shall
13 improperly influence, or attempt to improperly influ-
14 ence, through coercion, extortion, collusion, com-
15 pensation, instruction, inducement, intimidation,
16 non-payment for services rendered, or bribery, the
17 development, reporting, result, or review of a real es-
18 tate appraisal sought in connection with a mortgage
19 loan.

20 “(2) EXCEPTIONS.—The requirements of para-
21 graph (1) shall not be construed as prohibiting a
22 mortgage lender, mortgage broker, mortgage banker,
23 real estate broker, or any other person with an inter-
24 est in a real estate transaction from asking an ap-

1 praiser to provide 1 or more of the following serv-
2 ices:

3 “(A) Consider additional, appropriate
4 property information, including the consider-
5 ation of additional comparable properties to
6 make or support an appraisal.

7 “(B) Provide further detail, substantiation,
8 or explanation for the appraiser’s value conclu-
9 sion.

10 “(C) Correct errors in the appraisal report.

11 “(3) PROHIBITIONS ON CONFLICTS OF INTER-
12 EST.—No certified or licensed appraiser conducting
13 an appraisal may have a direct or indirect interest,
14 financial or otherwise, in the property or transaction
15 involving the appraisal.

16 “(4) MANDATORY REPORTING.—Any mortgage
17 lender, mortgage broker, mortgage banker, real es-
18 tate broker, or any other person with an interest in
19 a real estate transaction involving an appraisal who
20 has a reasonable basis to believe an appraiser is vio-
21 lating applicable laws, or is otherwise engaging in
22 unethical or unprofessional conduct, shall refer the
23 matter to the applicable State appraiser certifying
24 and licensing agency.

1 “(5) REGULATIONS.—The Federal financial in-
2 stitutions regulatory agencies (as defined in section
3 1003(1) of the Federal Financial Institutions Exam-
4 ination Council Act of 1978) shall prescribe such
5 regulations as may be necessary to carry out the
6 provisions of this subsection.

7 “(6) PENALTIES.—Any person who violates any
8 provision of this section shall be subject to civil pen-
9 alties under section 8(i)(2) of the Federal Deposit
10 Insurance Act or section 206(k)(2) of the Federal
11 Credit Union Act, as appropriate.

12 “(7) PROCEEDING.—A proceeding with respect
13 to a violation of this section shall be an administra-
14 tive proceeding which may be conducted by a Fed-
15 eral financial institutions regulatory agency in ac-
16 cordance with the procedures set forth in subchapter
17 II of chapter 5 of title 5, United States Code.”.

18 (m) APPRAISER EDUCATION.—Section 1122 of the
19 Financial Institutions Reform, Recovery, and Enforce-
20 ment Act of 1989 (12 U.S.C. 3351) is amended by insert-
21 ing after subsection (g) (as added by subsection (l) of this
22 section) the following new subsection:

23 “(h) APPROVED EDUCATION.—The Appraisal Sub-
24 committee shall encourage the States to accept courses ap-

1 proved by the Appraiser Qualification Board’s Course Ap-
2 proval Program.”.

3 (n) TECHNICAL CORRECTIONS.—

4 (1) Section 1119(a)(2) of the Financial Institu-
5 tions Reform, Recovery, and Enforcement Act of
6 1989 (12 U.S.C. 3348(a)(2)) is amended by striking
7 “council,” and inserting “Council,”.

8 (2) Section 1121(6) of the Financial Institu-
9 tions Reform, Recovery, and Enforcement Act of
10 1989 (12 U.S.C. 3350(6)) is amended by striking
11 “Corporations,” and inserting “Corporation,”.

12 (3) Section 1121(8) of the Financial Institu-
13 tions Reform, Recovery, and Enforcement Act of
14 1989 (12 U.S.C. 3350(8)) is amended by striking
15 “council” and inserting “Council”.

16 (4) Section 1122 of the Financial Institutions
17 Reform, Recovery, and Enforcement Act of 1989
18 (12 U.S.C. 3351) is amended—

19 (A) in subsection (a)(1) by moving the left
20 margin of subparagraphs (A), (B), and (C) 2
21 ems to the right; and

22 (B) in subsection (c)—

23 (i) by striking “Federal Financial In-
24 stitutions Examination Council” and in-

1 serting “Financial Institutions Examina-
2 tion Council”; and

3 (ii) by striking “the council’s func-
4 tions” and inserting “the Council’s func-
5 tions”.

6 **SEC. 204. STUDY REQUIRED ON IMPROVEMENTS IN AP-**
7 **PRAISAL PROCESS AND COMPLIANCE PRO-**
8 **GRAMS.**

9 (a) **STUDY.**—The Comptroller General shall conduct
10 a comprehensive study on possible improvements in the
11 appraisal process generally, and specifically on the consist-
12 ency in and the effectiveness of, and possible improve-
13 ments in, State compliance efforts and programs in ac-
14 cordance with title XI of the Financial Institutions Re-
15 form, Recovery, and Enforcement Act of 1989. In addi-
16 tion, this study shall examine the existing de minimis loan
17 levels established by Federal regulators for compliance
18 under title XI and whether there is a need to revise them
19 to reflect the addition of consumer protection to the pur-
20 poses and functions of the Appraisal Subcommittee.

21 (b) **REPORT.**—Before the end of the 18-month period
22 beginning on the date of the enactment of this Act, the
23 Comptroller General shall submit a report on the study
24 under subsection (a) to the Committee on Financial Serv-
25 ices of the House of Representatives and the Committee

1 on Banking, Housing, and Urban Affairs of the Senate,
2 together with such recommendations for administrative or
3 legislative action, at the Federal or State level, as the
4 Comptroller General may determine to be appropriate.

5 **SEC. 205. CONSUMER APPRAISAL DISCLOSURE.**

6 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
7 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting
8 after section 129B (as added by section 202 of this Act)
9 the following new section:

10 **“SEC. 129C. CONSUMER APPRAISAL DISCLOSURE.**

11 “In any case in which an appraisal is performed in
12 connection with an extension of credit secured by an inter-
13 est in real property, the creditor or other mortgage origi-
14 nator shall make available to the applicant for the exten-
15 sion of credit a copy of all appraisal valuation reports upon
16 completion but no later than 3 business days prior to the
17 transaction closing date.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for chapter 2 of the Truth in Lending Act is amended
20 by inserting after the item relating to section 129B (as
21 added by section 202 of this Act) the following new item:

“129C. Consumer appraisal disclosure.”.